

**UNITED STATES DISTRICT COURT
WESTERN DISTRICT OF LOUISIANA
LAKE CHARLES DIVISION**

MARK A. SCHLANG,

Plaintiff,

VERSUS

PENN NATIONAL GAMING, INC.,

Defendant.

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CIVIL ACTION NO.: 2:21-CV-00958

JUDGE:

MAG. JUDGE:

NOTICE OF REMOVAL

NOW COMES, through undersigned counsel, Defendant, Penn National Gaming, Inc. (“Defendant” or “Penn”), which, pursuant to 28 U.S.C. §§ 1441 and 1446, respectfully files this Notice of Removal on the following grounds:

1.

On or about March 22, 2021, Plaintiff, Mark A. Schlang (“Plaintiff” or “Schlang”), filed this action in the 14th Judicial District Court, Parish of Calcasieu, State of Louisiana, under the caption “*Mark A. Schlang vs. Penn National Gaming, Inc.*”, Case Number 21-001106, Division “F.”

2.

The 14th Judicial District Court is within the territorial limits of the Western District of Louisiana, Lake Charles Division.

3.

As alleged in the Petition, Plaintiff, Mark A. Schlang, is a person of the full age of majority who is domiciled in Calcasieu Parish, State of Louisiana. As such, Plaintiff is a citizen of the State of Louisiana for purposes of diversity jurisdiction pursuant to 28 U.S.C. § 1332.

4.

Defendant, Penn National Gaming, Inc. is incorporated in the state of Pennsylvania with its principal place of business located in Pennsylvania. Therefore, pursuant to 28 U.S.C. § 1332, Defendant is a citizen of the State of Pennsylvania for the purposes of diversity jurisdiction.

5.

Defendant received a copy of the Petition on or about March 22, 2021. Upon information and belief, service has not been effected upon Defendant. Therefore, this removal is timely pursuant to 28 U.S.C. § 1446(b)(1), as this *Notice of Removal* is being filed within 30 days after the Defendant received a copy of the initial pleading through service or otherwise.

6.

Pursuant to 28 U.S.C. § 1441(a), this removal venue is appropriate as the United States District Court for the Western District of Louisiana, Lake Charles Division, is the district within which the above described state court action is pending.

7.

This action involves claims for unpaid wages arising out of Plaintiff's former employment with Defendant. The Plaintiff seeks unpaid wages and penalty wages, though disputed by Defendant, in an amount greater than \$75,000.00. Because it is apparent on the face of the Petition that Plaintiff's alleged claims for unpaid wages and penalty wages exceed \$75,000.00, exclusive of interest and costs, removal is proper pursuant to 28 U.S.C. § 1332.

8.

This Court has jurisdiction pursuant to 28 U.S.C. § 1332, because the real parties in interest are citizens of different states and the amount in controversy, though disputed, exceeds seventy-five thousand and no/100 (\$75,000.00) dollars, exclusive of interest and costs.

9.

This action is a civil action of which this Court has original jurisdiction pursuant to 28 U.S.C. § 1332, and is one which may be removed to this Court by Defendant pursuant to the provisions of 28 U.S.C. § 1441(b) in that it is a civil action between citizens of different states and the amount in controversy exceeds the sum of \$75,000.00, exclusive of interest and costs.

10.

Because the requirements for complete diversity have been satisfied, and because Plaintiff alleges damages which exceed \$75,000.00, exclusive of interest and costs, removal is proper pursuant to 28 U.S. C. § 1332(a).

11.

Pursuant to 28 U.S.C. § 1446, a copy of all process, pleadings, and orders served upon, or otherwise provided to Defendants should accompany a removal. To that end, Defendant is attaching true and correct copies of the Plaintiff's Petition for Damages and the March 29, 2021 Notice of Hearing as Exhibits A and B, respectively, which are the only pleadings or papers in its possession. Defendant will, subsequent to the removal of this action, provide a certified copy of the suit record at the 14th Judicial District Court, Parish of Calcasieu, State of Louisiana, within the timeline set forth in any Order issued by this Honorable Court.

12.

Contemporaneously with the filing of this Notice of Removal, Defendant has given the 14th Judicial District Court, Parish of Calcasieu, State of Louisiana written notice of removal, a copy of which is attached hereto as Exhibit C.

WHEREFORE, Defendant, Penn National Gaming, Inc. prays that this Notice of Removal be accepted by this Honorable Court as good and sufficient and that the above-described civil

action be removed from the 14th Judicial District Court, Parish of Calcasieu, State of Louisiana, to this Court for trial and determination as provided by law; that this Court enter such orders and issue such process as may be necessary and proper to bring before it copies of all records and proceedings presently pending in the aforementioned state court and thereupon proceed with the civil action as if originally commenced in this Court; and for all necessary and appropriate orders and decrees in accordance with applicable law.

RESPECTFULLY SUBMITTED,

TAYLOR, PORTER, BROOKS & PHILLIPS L.L.P.

/s/ John T. Andrishok

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CERTIFICATE OF SERVICE

The undersigned hereby certifies that a true and correct copy of the foregoing document was filed electronically with the Clerk of Court using the CM/ECF filing system. Notice of this filing will be sent to all counsel by operation of the Court's electronic filing system.

Baton Rouge, Louisiana, this 9th day of April, 2021.

/s/ John T. Andrishok

John T. Andrishok